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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,236	06/27/2002	Turid Risdal	2002_0434A	4568

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EXAMINER

SPITZER, ROBERT H

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,236

Applicant(s)

RISDAL ET AL

Examiner

Robert H. Spitzer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-3,6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Amended claim 1 is indefinite because there is no direct antecedent basis for the recitation of "the membrane" in line 2. Claims 2,3,6 and 7 depend from indefinite claim 1 and are indefinite for that reason.
4. Claims 1-3,6 and 7 are again rejected under 35 U.S.C. 102(b) as being clearly anticipated by the disclosure of either one of these references as applied in the Norwegian Search Report: Mazanec et al. (5,306,411) or Thorogood et al. (5,240,480) or Mazanec et al. (5,714,091) or EPO 0,438,902 or NO 306014.
5. Claims 1-3,6 and 7 are again rejected under 35 U.S.C. 102(b) as being clearly anticipated by the disclosure of Cable et al. (5,910,238), specifically at Table 1.
6. Applicant's arguments filed April 1, 2003 have been fully considered but they are not persuasive. With respect to Mazanec et al. (5,306,411), Applicants state that the reference composition does not include aluminum in the mixture, as included in amended claim 1. However, claim 1 has no limitation on the value of y' being greater than zero. Only dependent claim 3 has the recitation that y' is greater than zero. Further, the Mazanec et al. ('411) reference does include aluminum. See specifically,

col. 9, line 61 through col. 10, line 63. With respect to the Thorogood et al. ('480) reference, Applicants are again arguing a feature that is not recited in these claims, and that feature is that the ratio of v/w is greater than 1. However, none of the claims of record have a letter "v" in their composition. Thus, the ratio has no meaning with respect to the instant claims 1-3, 6 and 7. As to the Mazanec et al. ('091) reference, the same argument as to the other Mazanec et al. ('411) reference is given by Applicants and the Examiner's response thereto is the same as above. With respect to the EPO and WO references, as they are related to the Mazanec et al. ('411) and ('091) references, the above remarks are also applicable thereto. As to the Cable et al. ('238) reference, the remarks with respect to the ratio and the presence of aluminum are answered in the same manner as above. With respect to the actual perovskites being shown by Cable et al. ('238), Applicants have admitted that the perovskites recited in their claims are encompassed by those compositions of Table 1 of the reference. Any other remarks made by Applicants and not specifically commented on by the Examiner have been considered.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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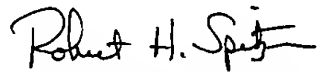
extension of the pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Spitzer whose telephone number is (703) 308-3794. The examiner can normally be reached on Monday-Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Simmons, can be reached on (703) 308-1972. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 and for After Final communications the fax number is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Robert H. Spitzer
April 9, 2003


Robert H. Spitzer
Primary Examiner
Art Unit 1724
April 9, 2003